

DIVERSITY AND THE NATURE OF RACISM

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Why is it that, despite the best efforts of many well-meaning people for many years, there still exist many barriers in American society encountered by people of color. Why is it in our society that African-Americans with same educational credential earn less than their white counterparts? Why is that a disproportionate number of the criminal inmates in this society are racial or ethnic minorities? Why do we still have fewer people of color in the legal profession than we should? Why is it that minority lawyers are not hired at greater rates? Why don't they become partners at greater rates? Why aren't there more law professors who are people of color? Why are there so few judges who are people of color?

When racism is suggested as the answer to these questions, many people become uncomfortable. There is no doubt that old-fashioned prejudice is still with us. We are far from the day when no one any longer feels dislike for another person based on race. But many of us do not recognize ourselves in this cardboard cut-out racist. We look in our hearts and we do not see that sort of animosity. In fact, many of us believe deeply in racial equality and feel committed to the goal of greater diversity in American society. We know that we make mistakes, but we also know that we are not that sort of racist: we don't hate anybody. And when someone accuses us of racism, we are outraged because we read that as an accusation that we are evil people filled with hate, who don't care about equality, and we know that is not true.

But hatred is not the only form of racism. The old-fashioned model of racism as

prejudice – conscious dislike or hostility towards others because of their race – is simply insufficient. We need to take account of other forms of racism, particularly unconscious racism and structural racism, and we need to see the ways in which they generate systematic privileges for white people, as well as systematic disadvantage for people of color. As Professor Charles Lawrence writes,

Americans share a common historical and cultural heritage in which racism has played and still plays a dominant role. Because of this shared experience, we also inevitably share many ideas, attitudes, and beliefs that attach significance to an individual's race and induce negative feelings and opinions about nonwhites. To the extent that this cultural belief system has influenced all of us, we are all racists. At the same time, most of us are unaware of our racism. We do not recognize the ways in which our cultural experience has influenced our beliefs about race or the occasions on which those beliefs affect our actions. In other words, a large part of the behavior that produces racial discrimination is influenced by unconscious racial motivation.¹

So, for example “an individual may select a white job applicant over an equally qualified black and honestly believe that this decision was based on observed intangibles unrelated to race. The employer perceives the white candidate as ‘more articulate,’ ‘more collegial,’ ‘more thoughtful,’ or ‘more charismatic.’ He is unaware of the learned stereotype that influenced his decision.”² The person engaging in the discriminatory behavior does not necessarily feel any hostility toward the other person. Indeed, the speaker may be someone deeply and sincerely committed to equality. So there is nothing that we would recognize as old-fashioned prejudice. The person's action is nonetheless discriminatory because it reflects and perpetuates stereotypes or assumptions that are damaging to the members of the group being characterized. The

¹ Charles R. Lawrence III, *The Id, the Ego, and Equal Protection: Reckoning with Unconscious Racism*,

² *Id.* at .

discrimination is unconscious because the actor may not even realize that he is relying on such a stereotype.

The striking thing about unconscious racism is that it affects absolutely everybody. We all live in a society where assumptions and stereotypes based on race are all around us. We cannot help but absorb some of these unconsciously. Even people who are members of the groups hurt by these stereotypes are not immune from unconscious discrimination; they often end up holding some of these assumptions about themselves and their own group. The universality of unconscious racism should help us to begin to understand why even well-meaning people can end up perpetuating racial inequality.

Recognizing unconscious racism makes a difference in at least three ways. First, it may help us to stop responding so badly to the charge of racial discrimination. Racism has become a conversational atomic bomb: once someone makes the accusation of racism, the dialogue ends. But if racism includes this kind of unconscious absorption of the racial assumptions and stereotypes of our culture, then being racist in this sense does not make us monsters; it simply makes us average members of our culture. We must hear the charge of racial discrimination, then, not as a claim that we are that cardboard cut-out racist, but as a claim that we are relying on such assumptions and stereotypes when we should be recognizing and resisting them. This is a claim that should be the beginning of a conversation, not the end.

Second, recognizing unconscious racism changes the nature of the moral obligation imposed by a commitment to equality. We are not obliged to be totally free of discriminatory assumptions – who could meet this standard in a racist culture? But we are obligated to be alert for the racist assumptions that we have absorbed from the general culture, to be willing to listen

when someone tries to point them out to us, and to make serious efforts to weed them out when we find them so that they do not continue to shape our behavior in ways that violate our own commitment to equality.

And third, if we recognize unconscious racism, then we must also recognize that simply eliminating the sort of conscious prejudice and hatred that we have thought of as racism will never get us to racial equality. We need mechanisms and procedures that will systematically call to our attention the racial assumptions and stereotypes that are unconsciously affecting our behavior. We need powerful programs to develop more positive assumptions and stereotypes to supplant the old ones. And we need strong affirmative action programs to counteract the effect of those old stereotypes until we can hope to correct them. Recognizing the impact of unconscious racism changes the nature of the practical solutions that will be required to achieve a more racially diverse profession.

The second type of racism we need to see is structural racism. Structural racism is a way of pointing to the fact that the world is set up to favor people who fit a particular norm and, in our society, that norm is racially white. This form of racism has nothing to do with individual people's attitudes or beliefs. Structural racism is not about hatred and it is also not about stereotypes; it is about the way the structures and institutions of our society systematically disfavor people who are not white. The point here is that race is not just about the color of one's skin. Being Black or Latino or Asian American means having some connection (which varies dramatically in degree and nature for each individual) to a culture that includes language, food, music, social cues and practices, and much more. Majority institutions, however, are designed to best fit and most reward people who are members of the majority culture. In addition, to be non-

white in our society is to be at substantially greater risk of living in poverty. Majority institutions are also, of course, designed to best fit and most reward people who have education, good health, and all of the other benefits of affluence, which are highly correlated with race. The result is a kind of racial “headwind”: people of color find themselves constantly struggling against barriers to success that their white counterparts often can’t even see.³

For example, there is much evidence that standardized academic tests systematically discriminate against people of color. The tests are not designed to discriminate: there is no conscious racial animus behind them. Nor are the students who take them given lower grades because of racial stereotyping by the graders: the examinations are graded anonymously. But the tests reward people who approach them from within a particular, economically privileged, racially coded, majority culture and they make it harder for those from different cultures to effectively demonstrate the intellectual abilities that are supposed to be measured by the test.

There may be no single test that could be “neutral” in this regard. No test will equally reward people from all of the different cultural backgrounds in our society. But when we are talking about race, the non-neutrality is not arbitrary or occasional; the decks are systematically stacked against racial minorities. The social institutions that control access to wealth and power in our culture, and to the social benefits that flow from them, are consistent in the way they implicitly require and reward membership in the majority white culture. It is the cumulative

³ The term “headwind” comes from the Supreme Court’s opinion in *Griggs v. Duke Power*, 401 U.S. 424, 432 (1971), in which the Court held that facially race-neutral rules that have a disparate impact on minorities could qualify as racially discriminatory under Title VII.

effect of such “headwinds” that deserves the name structural racism.

Structural racism helps us to understand why it is not enough to change people's hearts and minds -- we also need to change the institutions they inhabit. All of the good will in the world will not achieve racial equality until we are willing to reexamine our assumptions about the standards we use that have the systematic effect of screening out minorities. Structural racism requires us to rethink our measures of merit and to actively seek alternatives that will better allow people of color to demonstrate their talents and abilities. Again, the necessary solutions look very different once one recognizes this “invisible” form of racism.

Finally, once we have seen both unconscious racism and structural racism, we can begin to appreciate that these dynamics not only generate disadvantage for people of color, they also generate privilege for white people.⁴ If you are white, then you will almost never find yourself subject to derogatory racial stereotypes or assumptions. Rather, you will, without even knowing it, benefit from the racial assumptions of those around you. Similarly, if whiteness is the structural norm and you fit the norm, then you will move through those structures with no friction -- they were designed to fit you. This “frictionlessness” is a form of white privilege. White privilege is simply the flip side of the coin of discrimination.

⁴ For a full description and examples of white privilege, see Stephanie M. Wildman, *Privilege Revealed : How Invisible Preference Undermines America* (1996).

White privilege is a difficult and challenging idea. It is difficult, first of all, simply because it is hard for white people to see our own privilege. We don't notice the absence of friction, particularly if we don't ever really see or hear about the experiences of people who feel the friction. But the concept of white privilege is also difficult because it requires us to accept that our achievements and status are not simply the result of our own efforts and merit, but are partially due to unearned, undeserved, and unfair racial privilege. We are not individually to blame for this, of course, but we are nonetheless the beneficiaries of a racially unjust system. Just as, living in a racist culture, we cannot completely avoid unconscious racist stereotypes, so also we cannot avoid the benefits of white privilege. We can, however, recognize the extent to which we benefit from this injustice and work to remedy the unconscious racism and structural racism that create it.